

## MINUTES OF THE PROCEEDING OF THE CITY COUNCIL

August 15, 1994

The minutes of the proceedings of a special joint work session of the City Council of the City of Coos Bay, the City Council of the City of North Bend, and the Commissioners of Coos County, Oregon, in the North Bend Community Center at 1:00 P.M.

### **Those Present**

Those present were North Bend Mayor Timm Slater, North Bend Councilors Jack Gall, Karl Popoff, Clair Jones, Lee Golder; County Commissioners Jack Beebe and Gordon Ross; Coos Bay Mayor Joanne Verger, Coos Bay Councilors Joe Benetti, Gene McCabe, Cindi Miller and David Williams. City staff present included Coos Bay City Manager Jim Watson, North Bend City Manager Jim Allan, North Bend City Recorder Teri Turi, Coos Bay City Recorder Gail George, and North Bend City Attorney Bob Thomas. Bruce Anderson of the Coquille Economic Development Corporation, Danny Santos, Legal Counsel from the Oregon Governor's Office, Elizabeth Harchenko from the Oregon Department of Justice and Captain John McCafferty of the Oregon State Police were also in attendance.

The meeting was called to order by North Bend Mayor Timm Slater who explained that there was some confusion regarding the proposed gaming facility because the process of negotiating a gaming compact was a new one. Slater then turned the meeting over to Danny Santos.

Santos explained the purpose of the meeting was to provide information and allow questions and turned the mike over to Elizabeth Harchenko. Harchenko explained the Federal Indian Gaming Regulatory Act (IGRA.) She noted that the act established a framework under which the gaming operates and there is a federal commission which regulates bingo type of gaming for the tribes, but that IGRA provides for Class 3 gaming, which includes casino type games such as video poker, keno, roulette and craps, by a tribe if the tribe negotiates an agreement called a "compact" with the state. She went on to say that although the tribes have a sovereign status, there are some federal laws which provide for interaction between the tribe and the state including gaming and public law 280 regarding civil and criminal acts, but outside these two areas, other state laws do not apply. Harchenko related that the compact can address a wide variety of topics and is the operating document for conducting class 3 gaming, the IGRA specifies that gaming can only be conducted on certain land and once that land is taken into trust for restored tribes such as the Coquilles, it is eligible land for gaming.

Santos explained that states are now required to negotiate compacts on eligible lands to determine what types of class 3 gaming will be allowed. He said Oregon has negotiated compacts for size and scope of class 3 gaming with other tribes and if the State refused to negotiate, those decisions would be made by the United States Department of the Interior. Santos noted that since Oregon has a law which allows all kinds of class 3 games except slot machines for charitable organizations, these same games must be allowed in negotiating the compacts. He also said the

State can assess for its cost of regulation and a mediation process is addressed in the compact.

Harchenko related that IGRA divides up responsibility between the federal government, state government and the tribes. She explained that federal regulations establish what lands can be used and establish certain standards which must be met in order for land to be taken into trust and that this is outside of the IGRA. Her comments included information on once land is taken into trust, then the federal government decides if the land is eligible to be used for gaming. Harchenko mentioned that the Department of Interior decides if gaming is in the best interest of the tribe and is not detrimental to the surrounding community, and the governor of the state must concur. She noted that three prior negotiations in the State of Oregon have resulted in compacts agreeable to both sides. She apprised the audience that the Federal IGRA may be amended by a pending bill which will clear up some of the ambiguities and provide for some further regulation.

Santos informed the group that the first compact in Oregon was with the Cow Creek Tribe whose center is up and running, the second was with the Grande Ronde Tribe, and the most recent was with the Umatilla Tribe. He stated that a number of other tribes besides the Coquilles have contacted the State to negotiate compacts including the Siletz, Klamath and Coos. He said that communities have contacted the State and asked if they could just say no, but the state is reluctant to do that since then they will be taken out of the picture all together and the agreement will be negotiated by the Federal Government. He mentioned that the State also negotiates transportation issues and law enforcement issues during compact negotiations..

John McCafferty reported that the State Police were given very specific instructions by the Governor to provide the strictest security possible to protect everyone involved in gaming. He related that the State Police do background investigations on those involved in gaming and provide background investigations for the Tribes on their employees and prospective employees. He mentioned that the Oregon State Police also certify the video games as to their integrity. McCafferty noted that when they negotiate compacts, they realize that there is a potential for law enforcement problems in the community and during the first compact negotiations, the State Police traveled around the country to find out exactly what kinds of problems were occurring because of gaming in a community. He said they found that there were no increased law enforcement problems due to Indian gaming in the communities they visited and that the facility in Canyonville has been open for two years and the State Police have not had to respond to even one incident. He felt there might be some increase in traffic problems which are being addressed in the compact and a contingency for funding increased law enforcement can also be addressed in the compact. McCafferty vocalized that job of the State Police is to ensure that neither the community nor the tribe becomes a victim of organized crime and they have made it very difficult for organized crime to become involved in the gaming. He again noted that all around the country, the main problem occurring in conjunction with gaming facilities has been traffic. In his opinion, the security of the games and the security of the companies involved should be the least of the community's worries here.

Bruce Anderson was asked to make a presentation on behalf of the Coquille Tribe. He remarked that the Tribe's philosophy is to use their advantages for the benefit of the tribe and the benefit of the community. Anderson reiterated that the rules have been established by the Federal

Government and the Coquille Tribe is operating within those rules. He stated that the land can go into trust if the following three conditions are met: there are no encumbrances on the land, the land is under 1000 acres, and the land is located in Coos or Curry County. Anderson also noted that to have gaming, the land must be part of the reservation. He expressed that their compact will allow no more than 15% of their total space to be used for gaming and said the other 85% will be motels, a performing arts center, parking, etc. Anderson said they want to work with the community and hoped that both sides would respect each other's rights.

Santos expressed their appreciation at being given this opportunity to address the community and opened the meeting for questions. Timm Slater said he understood the tribe was free to conduct all games allowed in the state without a compact. Harchenko replied that a case in 1987 agreed with his understanding and the IGRA was passed in 1988 which imposed new requirements on the tribes and made the class 3 games available to the Indians only with the required compacts. She also said that if the state refuses to negotiate the Tribe can sue the state and the court can require negotiation. Harchenko explained the process wherein they have 60 days to negotiate and then go to mediation which is given to the Department of the Interior to decide. The State then loses their ability to express their concerns. Slater asked if the State was under some time frame in which to complete negotiations. Harchenko reported that there was a minimum of six months required before the Tribes could seek other remedies. Jack Beebe asked what was the difference between a compact and a contract. Harchenko replied that the word compact was used in the federal law and was the same thing as a contract and is as binding as a contract. Jack Gall asked if the 15% could change if the venture was successful. Anderson replied that the compact can be renegotiated after three years, but that the state guidelines call for 15%. Gall commented to McCafferty that he had alleviated some of his concerns by explaining the background investigations they are doing and he hopes that they have done a good job. Gordon Ross asked if the State will consider information coming from the public meeting being held in North Bend. Santos replied that information they get may be able to be addressed in the compact such as traffic and law enforcement, but that some of the concerns should be addressed to the tribe. Ross asked who would provide fire protection and if there needed to be a contract with North Bend. Harchenko replied that there are only certain things the state is allowed to put into the compact and fire protection did not come under the IGRA guidelines. As a business venture the Tribe should be looking at Fire Protection either on a contract basis or providing their own. Bob Thomas asked if the State has made a determination that if the lands are taken into trust they would qualify for gaming. Harchenko replied that the determination on whether or not the land qualifies is made by the Department of the Interior. Thomas asked if the compact has already been negotiated by the State and is ready for signing when the land is taken into trust. Harchenko replied that some details are still being worked on. Lee Golder asked a question about how problems encountered in administering the compact are resolved. Harchenko explained the process which has several stages starting with the local government going to the tribe and could end up in litigation. Golder expressed his hope that this would be a great venture and very successful and asked if the State has any plan to limit the number of gaming facilities. Santos explained that they must negotiate with any tribe who has eligible land and asks for negotiations. They do, however, limit gaming to one sight per tribe. Anderson noted that there are nine recognized tribes in Oregon. Harchenko also noted that the state will not favor one tribe over another. Jim Allan inquired whether any of the local communities have had their anticipated extra costs included in the

compact. Harchenko answered saying that the State has encouraged the tribes to work directly with the local governments, but said it is possible though has never happened. Santos said the state believes there should be memoranda of understanding between the tribe and the local government without the state being involved and that the local government is in the best position to know what those costs will be. Beebe commented that the putting of land into trust was not a State issue and he was glad to see this hearing held. He then asked if the State could insist that the Tribe use state-owned terminals. Harchenko replied that this has not been included in any of the compacts as a remedy if they felt violations of the compact were occurring. Mayor Verger asked how the proposed legislation might change the compact negotiations. Harchenko replied that existing compacts would be affected especially in the security areas of the compacts. However, the bill will not be addressed in this session and will be starting over next year. She did not feel the definitions of class 3 games would have a dramatic effect on Oregon compacts. Gene McCabe asked if the largest casino investigated by the State Police was inside city limits. McCafferty replied that it was just outside the limits of a small city. McCabe asked if they talked to people about how it changed the face of the town. McCafferty replied that the business owners were happy, but it is not clear about what the long term social effects will be. McCabe asked Anderson why he felt that gaming would be of benefit to the Tribe. Anderson replied that he was initially against gaming but was asked to look at it by the Tribal Council. After investigating gaming, he found it to be highly regulated and felt it was the quickest way to bring economic development to the area with a large number of jobs. Santos reported that what they are seeing in other compacts is secondary development beyond the gaming. Ross expressed his concern about providing protection for our citizens when they go to this "other nation" and asked if they could have their own police force and incarcerate people there. McCafferty explained that the Tribe could have their own police department and their own court if they wanted to as do the Umatilla and Warm Springs tribes who work with the State Police, but said that non-tribal members on tribal land are tried in Oregon Courts, not tribal courts. Gall asked if the tribe would have to submit a request for compliance with zoning and estuary regulations. Harchenko replied that they would have to comply with federal laws regarding the site, but that State regulations do not apply. Gall asked what guarantee we have that there will not be a liquor license issued for the facility at a later date. Anderson replied that part of their contract requires compliance with Oregon Liquor Laws. Golder asked if feasibility studies have been done about traffic and would the tribe make these studies available to the City of North Bend to alleviate citizen concerns. Anderson replied that some preliminary studies were done, but that a final study is being done now which will be made public when completed. Golder asked how the land in Salem, turned down by the Governor, was different than the land here. Harchenko remarked that this tribe was restored after the IGRA and comes under a different provision. Clair Jones asked if since the location is surrounded by North Bend, is the State willing to help the City negotiate a contract with the tribe regarding use of City streets that might cause additional repair. Harchenko replied that the State requests the local government work directly with the Tribe but that they are happy to assist in any way they can. She also mentioned that the Department of Transportation is working with the Tribe on the impact on state highways. Golder asked what would happen if the State of Oregon decided at some future date to cease to allow any gaming in the state. Harchenko says that there is a provision that if any of the major factors in the laws forming the compact change, the Indians will have to re-apply. Slater asked what type of local input is important to the State in their negotiation process. Harchenko replied that the main concern is having a process in place to deal with issues

that may come up and they would be interested in knowing what issues the City anticipates may come up in the future. She further replied that memoranda of understandings work well with most issued between the tribe and the City.

There being no further questions, the meeting was adjourned.

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Joanne Verger  
Mayor of the City of Coos Bay  
Coos County, Oregon

**ATTEST:**

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Gail George  
Recorder of the City of Coos Bay  
Coos County, Oregon